

## PERSONNEL SERVICES BULLETINS (PSBs)

200-4

**Subject:** Termination of employees who are absent without leave

**Supersedes:** Personnel Policy and Procedure No. 783-87

**Source:** City Personnel Director Rule 6.4.3; Civil Service Law Section 75

**Date:** March 21, 1997

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### I. Background

City Personnel Director Rule 6.4.3 provides that if an employee is absent without leave (AWOL) for a period of twenty consecutive work days and fails to communicate with his/her employing agency in a manner prescribed by that agency, then such an absence shall be considered a resignation unless the appointing officer accepts an explanation. The rule also provides an employee absent without leave who is covered by Section 75 of the Civil Service Law is entitled to certain disciplinary rights. Section 75 applies to permanent, competitive class employees. It may also apply, under limited circumstances, to employees serving in positions in other classes of the classified service. In addition, employees not covered by Section 75 may be entitled to disciplinary rights under their collective bargaining agreements.

### II. Procedure

#### A. Employees Not Covered by Section 75 of the Civil Service Law

1. The agency shall send the employee written notification that he/she is deemed to have resigned effective the first day of the absence, unless the employee offers an explanation for his/her unauthorized absence that is acceptable to the appointing officer.
2. The agency shall state the basis for the determination in the letter and enclose a copy of City Personnel Director Rule 6.4.3.
3. Such absence shall constitute a cause for action against an employee who is entitled to disciplinary appeal rights by virtue of a collective bargaining agreement. In such cases, follow the procedure set forth in the agreement.

#### B. Employees Covered by Section 75 of the Civil Service Law

1. The Agency Disciplinary Advocate shall commence proceedings subject to the provisions of Section 75 of the Civil Service Law.
2. Employees can be deemed to have resigned only after the notice and hearing provisions contained in Section 75 of the Civil Service Law.
3. Employees who are in titles covered by collective bargaining agreements may choose to go under the disciplinary procedures provided therein. In such case they must waive their rights under Section 75.

#### C. Agency Responsibilities

Agencies are to ensure that all of their employees are informed, preferably in writing, of the manner in which absences are required to be reported to the agency, and are to take appropriate action, as above, when employees fail to comply.

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Commissioner

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